

November 3, 2006

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L05P0014**
Proposed Ordinance No. **2006-0409**

PARHANIEMI ESTATES
Preliminary Plat Application

Location: 10616 Northeast 132nd Street, approximately 345 feet west of the
Northeast 132nd Street and 108th Avenue Northeast intersection

Applicant: **C&B Investments, LLC**
Craig Pierce
19711 – 88th Avenue Northeast
Bothell, Washington 98011
Telephone: (425) 299-2600

King County: Department of Development and Environmental Services (DDES),
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6758
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATIONS:

| | |
|--|----------------------------------|
| Department's Preliminary Recommendation: | Approve, with conditions |
| Department's Final Recommendation: | Approve, with revised conditions |
| Examiner's Decision: | Approve, with revised conditions |

EXAMINER PROCEEDINGS:

| | |
|-----------------|--------------------|
| Hearing Opened: | September 26, 2006 |
| Hearing Closed: | September 26, 2006 |

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Craig Pierce
C & B Investments, LLC
19711 88th Avenue NE
Bothell, WA 98011
425-299-2600

Consultant: De-En Lang
Lang Associates, Inc.
10658 Riviera Place NE
Seattle, WA 98125

Engineer: Harmsen & Associates Inc.
17614 West Main Street
PO Box 516
Monroe, WA 98272-0516
360-794-7811

STR: SW 20-26-05

Location: The property is located at 10616 NE 132nd Street, approximately 345 feet west of the NE 132nd Street and 108th Avenue NE intersection.

Zoning: R-8-SO

Acreage: 2.3

Number of Lots: 19

Density: 7.98 units per acre

Lot Size: Ranges from approximately 3,200 to 6,000 square feet

Proposed Use: Single-family detached dwellings

Sewage Disposal: Northshore Utility District

Water Supply: Northshore Utility District

Fire District: King County District No. 41

School District: Lake Washington School District No. 414

Application Completeness Date: July 12, 2005

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation (KCDOT) testimony are found to be correct and are incorporated herein by reference.

3. The subject property is a 2.44-acre, near-square parcel located in the unincorporated Juanita area between Kenmore and Kirkland. It has public road frontage on the north side of Northeast 132nd Street at its signalized intersection with Juanita High School's main entrance drive. The site terrain consists of a relatively flat eastern portion and a western portion descending moderately from east to west to the western boundary. Beyond the western boundary, there are steeper slopes in the backyards of adjacent residences. No defined, regulated critical areas, such as streams, wetlands and hazardous slopes, lie onsite or in very close proximity to the property. No seismic hazard is identified onsite or adjacent. Except for areas devoted to existing structural development, which consists of a two-story single-family residence in the east central portion and numerous outbuildings, the site is wooded with a successive-growth mixed-species of trees native to the Pacific Northwest. Low vegetation and ground cover consist of typical Northwest species. The surrounding area consists of a suburban part of the unincorporated county, with a substantial amount of fairly standard-density suburban residential development in all directions except for the high school campus to the south across Northeast 132nd Street.
4. Applicant C&B Investments, LLC, proposes subdivision of the property into 19 lots for detached single-family residences. The residential density would be approximately eight units per acre, with lot sizes ranging from approximately 3,200 to 6,000 square feet in area. Internal access to the lots would be provided by the extension of a relatively short public road cul-de-sac (108th Place NE) northerly from Northeast 132nd Street, aligned with the Juanita High School entry road, which as noted is signalized. Branching easterly from the internal cul-de-sac would be two private lot access tracts and branching northwesterly from the cul-de-sac bulb would be a joint use driveway, all of which would each serve multiple lots. A storm drainage detention and recreation space tract would be placed in the southwest corner of the site (in the northwest corner of the intersection) and developed with an underground drainage detention and water quality vault overlain with recreation open space and amenities.
5. The property is located within the Juanita Creek sub-basin of the Lake Washington drainage basin and is subject to the Conservation flow control and Basic water quality requirements of the 2005 King County Surface Water Design Manual (KCSWDM). Most runoff from the property would be collected and directed to the detention facility, the release from which would travel westerly in the storm drainage system of Northeast 132nd Street to Juanita Creek. Currently, sheetflow from the moderately sloped western portion of the site (the portion west of the existing residential driveway) crosses the western property line and runs into the backyards of the adjoining residential development. With the development of the property as proposed, most of the sheetflow in such location (which in drainage terminology constitutes "nuisance flows" if of any significance) would be significantly reduced. It does not appear that any neighboring parcels discharge upstream sheetflows onto the site.
6. Traffic impacts of the proposed development would be adequately mitigated under the code by the standard collection of MPS mitigation fee payments under Chapter 14.75 KCC. The development has received a concurrency certificate issued under Chapter 14.70 KCC, over which issuance the Examiner has no jurisdiction. The peak hour trip generation of the proposed development, approximately 18 trips (based on the 18 new residences proposed), does not exceed the threshold for consideration of Level of Service (LOS) impact mitigation, governed by Chapter 14.80 KCC. It is acknowledged that the LOS of Northeast 132nd Street is poor, with routine heavy peak hour congestion. However, under the county's traffic mitigation regulations,

developments which direct less than 30 peak hour trips¹ to an LOS-deficient intersection are not required to mitigate such LOS impacts. The existing signal controlling the Juanita High School entry drive intersection with Northeast 132nd Street will be reconfigured upon the development of the site, since the intersection will then become a four-way intersection. Crosswalk delineations and channelization (road markings) may also need to be adjusted in the revised intersection.

7. The intersection spacing of the proposed alignment of the development's entry road with the Juanita High School entry road at the intersection with Northeast 132nd Street is the subject of a road standards variance (a variance from the 1993 King County Road Standards; KCRS), which was granted essentially to accommodate the overriding benefit of fully aligned roadways intersecting Northeast 132nd Street. Stopping sight distance on Northeast 132nd Street will be somewhat diminished from existing KCRS specifications, but will still meet the standards of the American Association of State Highway and Transportation Officials (AASHTO).
8. Resident public schoolchildren will walk to their respective schools; all of the direct routes consist of walkways, paved shoulders, and/or marked crosswalks, which will provide safe walking conditions for resident school pedestrians.
9. Neighboring property owners expressed concern that their steep bank adjacent to the property, which descends on the adjacent properties down to the residential sites on those adjacent lots, is seismically vulnerable, which vulnerability may be aggravated by the proposed development. There is no persuasive evidence to suggest aggravation of any alleged seismic vulnerability by the development, and in any case, soil examinations and construction engineering requirements including testing and maintaining soil stability will be addressed in the engineered construction plan review stage of the subdivision development. That occurs after preliminary plat approval and will be subject to administratively imposed grading permit requirements and applicable grading specifications, including maintaining soil strength and stability for any road and structural development and utility installations.
10. Persons are also concerned about the density differential which will be presented by the establishment of 19 dwelling units on the subject property, which appears to be a higher density than that of the adjacent developed properties. The density proposed conforms to the R-8-SO zoning of the property, which the Examiner has no authority to limit.
11. Also of concern is that the property may have some historic value and such value should be examined for potential preservation. However, the evidence and testimony in the record indicates that the property is not a designated King County Landmark, nor is it indicated as being on the National Register of Historic Places, and therefore from a historic preservation standpoint there is no regulatory prohibition or procedural requirement on the proposed development.
12. DDES initially recommended a requirement that a pedestrian walkway be installed from the proposed subdivision's internal road system to extend northward to link with an existing offsite five foot walkway easement which has not been developed. Upon further examination and review in response to testimony from the two owners of the properties adjoining such easement,

¹ And/or less than 20 percent of the development's generated traffic.

DDES now recommends that the condition be deleted and that the walkway not be required, concluding that it would not serve a public purpose in this case.

13. Chapter 21A.38 KCC's special overlay requirement SO-220 (Significant Tree Overlay) applies to the site. The Significant Tree Overlay standards require the development to retain a percentage of the significant trees onsite. To implement KCC 21A.38.230, a detailed tree retention plan must be submitted with the engineering plans for the subdivision.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-8-SO zone.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on February 24, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Parhaniemi Estates* subdivision, as revised and received February 24, 2006, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the density requirements of the R-8-SO zone classification. All lots shall meet the minimum dimensional requirements of the R-8-SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).

5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow and hydrant standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the 2005 Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
 - d. The drainage facilities shall meet the requirements of the 2005 King County Surface Water Design Manual (KCSWDM). The facilities shall meet the requirements for Conservation Flow Control and Basic Water Quality in the KCSWDM.
 - e. DDES has approved a drainage adjustment (L06V0021) for this site. All conditions of approval of this adjustment shall be met prior to approval of the engineering plans.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. 108th Place NE shall be improved at a minimum to the urban subaccess street standard.
 - b. Tract C shall be improved as a joint use driveway per Section 3.01 of the KCRS. This tract shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the final recorded plat.
 - c. Tracts A and B shall be improved as private access tracts per Section 2.09 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be included on the final recorded plat.

- d. The existing traffic signal at the intersection of the plat entrance at NE 132nd Street (currently providing signalized access for Juanita High School) and roadway channelization on NE 132nd Street shall be modified as necessary to accommodate the plat street. Plans for the modification of the signalization system and roadway channelization shall be submitted to KCDOT for review and approval.
 - e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
 - f. KCDOT has approved a Road Variance (L06V0025) for this site. All conditions of approval of this variance shall be met prior to approval of the engineering plans.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the Metropolitan King County Council prior to final plat recording.
 9. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the NEW___ dwelling units in the plat and shall be collected prior to building permit issuance.
 11. There shall be no direct vehicular access to or from NE 132nd Street from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
 12. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
 13. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan.

- b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
14. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).
15. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if NE 132nd Street is on a bus route. If NE 132nd Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

16. To implement SO-220, which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention and engineering plans shall be consistent with the requirements of SO-220. No clearing of the site is permitted until the tree retention plan is approved by DDES. Flagging and temporary fencing of trees to be retained shall be provided, consistent with SO-220. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except as may be permitted under the provisions of SO-220. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. The tree retention plan shall be included as part of the final engineering plans for the subject plat.
17. In the event that any archaeological objects are uncovered on the site, the applicant shall comply with RCW Chapter 27.53, Archaeological Sites and Resources. Immediate notification and consultation with the State Office of Archaeology and Historical Preservation, King County Office of Cultural Resources and relevant tribes (including the Suquamish, Puyallup and Muckleshoot tribes) is required if discovered materials are prehistoric and a site is present.

ORDERED November 3, 2006.

Peter T. Donahue
King County Hearing Examiner

TRANSMITTED November 3, 2006 to the following parties and interested persons of record:

G.A. de Andrea
13305 - 105th Ave. NE
Kirkland WA 98034

C&B Investments, LLC
Attn: Craig Pierce
19711 - 88th Ave. NE
Bothell WA 98011

Colleen Granger
10616 NE 132nd St.
Kirkland WA 98033

David A. Hodge
10647 NE 133rd Pl.
Kirkland WA 98034

Clyde & Judith Kennard
10520 NE 133rd Pl.
Kirkland WA 98034-2031

Lang Associates, Inc.
Attn: De-en Lang
10658 Riviera Pl. NE
Seattle WA 98125

Katherine & Harry Lingquist
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Bellevue WA 98004-6626

Brian Lockhart
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Kirkland WA 98034

James W. Peterson
10646 NE 132nd Pl.
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Ruth Peterson
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Kirkland WA 98034

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Kirkland WA 98034

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10267 NE 129th Ln
Kirkland WA 98034

Sean Totten
10625 NE 133rd Pl.
Kirkland WA 98034

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10527 NE 133rd Pl.
Kirkland WA 98034

Benjamin Young
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Kelly Whiting
KC DOT, Rd. Srvcs. Div.
MS KSC-TR-0231

Bruce Whittaker
DDES/LUSD
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before November 17, 2006***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 27, 2006***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE SEPTEMBER 26, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L05P0014.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Kristen Langley, representing the Department; De-en Lang, representing the Applicant, and Katherine Lindquist, Kelly Stevens, Sean Totten, Tom Stein and Jon LaFollette.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L05P0014
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report, dated September 26, 2006
- Exhibit No. 3 Application for Land Use Permits dated July 12, 2005
- Exhibit No. 4 SEPA Environmental checklist dated July 12, 2005
- Exhibit No. 5 SEPA Determination of Non-significance issued September 1, 2006
- Exhibit No. 6 Affidavit of Posting indicating a posting date of September 8, 2005; received by DDES on September 14, 2005
- Exhibit No. 7 Revised Preliminary plat map dated February 24, 2006
- Exhibit No. 8 Revised Level 1 Downstream Drainage analysis and conceptual Storm Drainage Report received February 24, 2006
- Exhibit No. 9 Revised Conceptual Drainage & Grading Plan received February 24, 2006
- Exhibit No. 10 Letter to DDES from Stephen Mason dated May 26, 2005 on sight distance analysis
- Exhibit No. 11 Letter to C & Investment NW LLC from John Altmann dated April 2, 2005 on wetland/stream reconnaissance
- Exhibit No. 12 Intersection design memo received July 12, 2005
- Exhibit No. 13 Approved KCRS Variance L06V0025
- Exhibit No. 14 Approved KCSWDM Adjustment L06V0021
- Exhibit No. 15 Three photographs showing trees on Sean Totten's property that will have to be cut down

PTD:gao
L05P0014 RPT